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| 10/516,820 | 12/07/2004 | Angelo Benvenuti | 6433/PCT | 7282 |
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| DENTER, CLARK F | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/516,820

Applicant(s)

BENVENUTI ET AL.

Examiner

Clark F. Dexter

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-9,17-20,22 and 24 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-3,5-9,17-20,22 and 24 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 16 April 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. The amendment filed on April 16, 2008 has been entered.

Drawings

2. The drawings were received on April 16, 2008. These drawings are acceptable.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 22, line 5, "space" is vague as to what is being set forth, and it seems that it should read --spacing-- (as now set forth in claim 9) or --a space--; further, in lines 5-6, the recitation "space between said fixed longitudinal element and said flexible member in a plan projection is less than a transverse plan dimension of said products to be received and fed along said path" remains vague and indefinite because the structure of the device is being positively defined in terms of the workpieces/products, i.e., the rolls, which are not part of the claimed invention.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 5-7, 22 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Ruffi, pn 811,332.

Regarding claims 1-3, 5-7 and 22, Ruffi discloses a device with every structural limitation of the claimed invention as follows:

- a path (e.g., between 27 and 11) for the products, extending from a product and trimmings entry position and a product delivery position, the trimmings being removed between said entry position and said delivery position (i.e., the device of Ruffi is fully capable of performing such a function), and said path being constructed and arranged to receive said trimmings and said products aligned in a row extending substantially parallel to a direction of advancement from said entry position to said delivery position (i.e., the device of Ruffi is fully capable of performing such a function);

- extending along said path, a movable flexible member (e.g., 27) to retain and move the products and the trimmings (e.g., the device of Ruffi is fully capable of meeting this limitation, particularly given the appropriately configured workpiece/product, such as a "soft" workpiece that is able to be deformed and pressed into the channels formed by features 32 to contact member 27) and an opposite longitudinal fixed element (e.g., 11) to retain said trimmings extending along said path

parallel to a first branch of said flexible member, said fixed longitudinal element being spaced from said first branch of said flexible member so as to allow the products to advance in contact with said flexible member (e.g., with at least 28) and with said fixed longitudinal element;

- at least one pusher (e.g., 16) movable along a feed trajectory, to feed the series of products with the trimmings to said path wherein the pusher feeds the products and the trimmings while aligned in said row parallel to the direction of advancement between said flexible member and said fixed longitudinal element (i.e., the device of Rufli is fully capable of performing such a function); wherein said feed trajectory of the pusher intersects the path of the products between said flexible member and said fixed longitudinal element, overlapping in a final stretch (e.g., in the same manner as the present invention) of the path of the products in contact with said flexible member and said fixed longitudinal element;

[claim 2] wherein said products are rolls of wound web material and said trimmings are head and tail trimmings produced by cutting rolls or logs (this claim is directed to the workpiece/product which is not part of the claimed invention);

[claim 6 (from 2)] wherein the fixed longitudinal element and the first branch of the flexible member are operatively spaced relative to one another so as to receive rolls of wound web material and trimmings therefrom (e.g., the device of Rufli is fully capable of meeting this limitation, particularly given the appropriately configured workpiece/product);

[claim 3] wherein said fixed longitudinal element is at a lower height than said flexible member (e.g., see Fig. 2);

[claim 5 (from 3)] wherein said first branch of the flexible member is approximately vertically overlapping said fixed longitudinal element (e.g., see Fig. 2);

[claim 7] wherein said flexible member extends upstream of said fixed longitudinal element, in relation to the a direction of feed of the products (e.g., as viewed in Fig. 2, element 27 extends to the right which is an upstream direction of element 11 in relation to a direction of feed of the workpieces/products, and in particular, element 27 extends upstream of element 11 when element 11 is fixed in the raised position (shown in phantom in Fig. 2));

[claim 22] wherein said fixed longitudinal element and said flexible member are positioned on opposite sides of a vertical median plane of symmetry of the products fed along said path; space between said fixed longitudinal element and said flexible member in a plan projection is less than the a transverse plan dimension of said products to be received and fed along said path (e.g., the device of Rufli is fully capable of meeting this limitation as best understood, particularly given the appropriately configured workpiece/product); and the dimension and form of said pusher are such that during action of said pusher to feed the products to said path between the flexible member and the fixed longitudinal element the pusher does not interfere with said fixed longitudinal element and said flexible member.

Regarding claim 24, Rufli discloses a device with every structural limitation of the claimed invention as follows:

- a path (e.g., between 27 and 11) for the products, extending from a product and trimmings entry position and a product delivery position, the trimmings being removed between said entry position and said delivery position (i.e., the device of Rufli is fully capable of performing such a function), and said path being constructed and arranged to receive said trimmings and said products aligned in a row extending substantially parallel to a direction of advancement from said entry position to said delivery position (i.e., the device of Rufli is fully capable of performing such a function);

- extending along said path, a movable flexible member (e.g., 27) to retain and move the products and the trimmings (e.g., the device of Rufli is fully capable of meeting this limitation, particularly given the appropriately configured workpiece/product, such as a "soft" workpiece that is able to be deformed and pressed into the channels formed by features 32 to contact member 27) and an opposite longitudinal fixed element (e.g., 11) to retain said trimmings extending along said path parallel to a first branch of said flexible member, said fixed longitudinal element being spaced from said first branch of said flexible member so as to allow the products to advance in contact with said flexible member (e.g., with at least 28) and with said fixed longitudinal element;

- at least one pusher (e.g., 16) movable along a feed trajectory, to feed the series of products with the trimmings to said path wherein the pusher feeds the products and the trimmings while aligned in said row parallel to the direction of advancement between

said flexible member and said fixed longitudinal element (i.e., the device of Rufli is fully capable of performing such a function); wherein said feed trajectory of the pusher intersects the path of the products between said flexible member and said fixed longitudinal element, overlapping in a final stretch (e.g., in the same manner as the present invention) of the path of the products in contact with said flexible member and said fixed longitudinal element; and wherein said flexible member and said fixed longitudinal element are arranged relative to one another to cause the trimmings to overturn due to an overturning torque applied thereon by said flexible member and said fixed longitudinal element (i.e., the last limitation does not clearly set forth any additional structure, and Rufli discloses structure that is "arranged relative to one another" such that the device of Rufli is fully capable of performing such a function).

Claim Rejections - 35 USC § 103

7. Claims 8, 9 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rufli, pn 811,332.

Rufli discloses a device with almost every structural limitation of the claimed invention but lacks:

[claim 8] wherein said flexible member has a feed speed, along said path, greater than a feed speed imparted on the products by said at least one pusher;

[claim 9] wherein spacing between the flexible member and the fixed longitudinal element is adjustable;

[claim 17] wherein said fixed longitudinal element comprises a synthetic material with a low friction coefficient;

[claim 18 (from 17)] wherein said synthetic material is polytetrafluoroethylene (Teflon);

[claim 19] wherein said fixed longitudinal element has a laminar extension, with a rounded surface in contact with the products;

[claim 20 (from 19)] wherein said fixed longitudinal element has a reduced height in proximity to the product and trimmings entry position.

Regarding claim 8, the Examiner takes Official notice that it is old and well known in the art to provide material conveyors of different speeds (or variable speeds) for various well known benefits including adjusting the spacing between work pieces. For example, it is old and well known in the art to decrease the speed of a first conveyor leading to a second, faster conveyor to increase spacing between the work pieces, and to increase the speed of the first conveyor relative to the second conveyor to reduce the spacing between work pieces. Therefore, it would have been obvious to one having ordinary skill in the art to provide conveyors (e.g., including a movable flexible member and a pusher) having the claimed relative speeds to gain the well known benefits including those described above.

Regarding claim 9, the Examiner takes Official notice that it is old and well known in the art to provide a workpiece supports and conveyors with variable spacing therebetween for various well known benefits including facilitating the processing of

different sized work pieces. Therefore, it would have been obvious to one having ordinary skill in the art to provide such a variable spacing support/conveyor configuration to gain the well known benefits including that described above.

Regarding claims 17-20, the Examiner takes Official notice that such workpiece support configurations are old and well known in the art and provide various well known benefits including ease of manufacture, ease of handling and reduced wear/friction characteristics. Therefore, it would have been obvious to one having ordinary skill in the art to provide such a longitudinal element configuration on the apparatus of Ruffli for the well known benefits including those described above.

Response to Arguments

8. Applicant's arguments filed April 16, 2008 have been fully considered but they are not persuasive. Applicant argues on pages 16-18 of the response how the present invention is used in a different manner for a different purpose as compared to the applied prior art. However, it is respectfully submitted that applicant has not argued how the claims directed to the present invention structurally distinguish the claimed invention over the prior art. It is emphasized that the Examiner's position is not that the prior art is used in the same manner or for the same purpose as the present invention. Rather, the Examiner's position is that the prior art teaches or suggests all of the structure set forth for the claimed invention.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/
Primary Examiner, Art Unit 3724**

cfd
July 16, 2008